HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE

WRIT PETITION No.14267 OF 2005

Between:

Ranvir Singh

. . .Petitioner

AND

Central Power Distribution Company Limited and others

. . .Respondents

:: ORDER ::

Counsel for the petitioner : Shri Ch.Dhanamjaya

Counsel for the respondents : Shri A.B.S.Reddy
for Shri V.Ajay Kumar

Dated: 29th August, 2007

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Feeling aggrieved by the action of the concerned officer of Andhra Pradesh Central Power Distribution Company Limited to disconnect the supply of electricity to Service Connection bearing No.L 4016233, the petitioner has filed this petition under Article 226 of the Constitution of India.

At the outset, I consider it proper to mention that while issuing notice of the writ petition on 01.07.2005, the learned Single Judge passed interim order in WPMP No.18121 of 2005 for restoration of power supply to service connection in question. Therefore, the only issue which merits consideration is whether the action of the concerned officer of the respondent to disconnect the supply of electricity to the service provided in the premises of the petitioner is legally correct and justified.

The petitioner claims to be the permanent resident of Door No.13-3-613/C, Ziaguda, Hyderabad. He is getting supply of electricity from the respondent. His son Sandeep Kumar is having separate connection bearing No.L 4016232 situated in Door No.13-3-613/A, Ziaguda, Hyderabad. On 27.06.2005, the concerned officer of the respondent disconnected the supply of electricity to the petitioner on the pretext that he had extended supply to the service connection of his son which was earlier disconnected on account of non-payment of arrears of electricity dues amounting to Rs.1,01,339/-.

The petitioner has questioned the action of the respondent by describing it as totally arbitrary, unreasonable and contrary to the rules of natural justice. The respondent has justified the disconnection of supply of electricity to Service Connection
No.L 4016233 by asserting that the impugned action was necessitated because the petitioner was extending power supply to his son's premises. In para 4 of the counter-affidavit, Shri A.V.Rama Rao, the then Assistant Divisional Engineer/Operation/Seetharam Bagh has averred as under:

> "Before adverting to reply to the allegations made by the petitioner, this respondent submits that the petitioner is availing power supply vide S.C.No.L 4016233. It is true that there are no dues as against the said service connection. The petitioner's service connection was disconnected on 27.06.2005 for the reason that the petitioner is using the power supply for extending the same to a service, which is under disconnection and indulging in malpractice as per the condition no.39.1.1. of the terms and conditions of supply. It is relevant to submit here that when the officials of the respondent were on a routine inspection of the disconnected services, it was found that the disconnected service of the petitioner's son was given supply from the petitioner's service connection. The petitioner extended the power supply to his son's premises which is under disconnection for the reason of non-payment of regular C.C. charges to a tune of Rs.1,01,339/-. The act of the petitioner amounts to malpractice as such the service connection was disconnected."

Shri A.B.S.Reddy appearing for Shri V.Ajay Kumar, learned counsel for the respondent relied on 39.5 of the conditions of supply laid down by Andhra Pradesh State Electricity Board (predecessor of the respondent) and argued that the concerned officer had rightly disconnected the power supply to service connection bearing No.L 4016233 because at the time of inspection, it was noticed that the petitioner was unauthorisedly supplying electricity to the premises of

his son. He, however, fairly stated that the counter filed on behalf of the respondent is conspicuously silent about the date and time of inspection, as also the name and designation of the officer who is said to have inspected the service connection bearing No.L 4016233. Learned counsel also conceded that he is not in a position to state whether any intimation in terms of para 39.5 of the conditions of supply had been given to the higher authorities about disconnection of supply of electricity to the petitioner.

Para 39.5 of the conditions of supply reads as under:

> "Where on the inspection of consumer's installations or premises or on the basis of other information or data there is scope for suspecting that a consumer is guilty of supply of electricity to any service, which is disconnected by the Board'or'pilferage of energy', the officer authorized in this behalf by the Board may without prejudice to Board's other rights, cause the supply of electricity to such consumer to be forthwith disconnected without any notice and report the matter to the final assessing authority. In the case of the malpractices other than the one mentioned above, supply shall be disconnected only in the event of failure on the part of the consumer to pay half of the estimated amount within the period stipulated in the provisional assessment notice."

A reading of the above reproduced provision shows that the competent authority can disconnect supply of electricity without notice only if the consumer has misused the supply. The said paragraph also empowers officer authorized in this behalf by the Board (the respondent herein) to disconnect the supply of electricity if on inspection of the consumer's installations or premises or on the basis of information or data, he suspects that a consumer is guilty of supply of electricity to any service which is disconnected by the Board or there is pilferage of energy. The authorized officer is also required to report the matter to the final assessing authority.

It is neither the pleaded case of the respondent nor Shri A.B.S.Reddy appearing on its behalf could show that supply of electricity to the petitioner's connection was discontinued by the authorized officer and that too on the basis of suspicion entertained by him that the petitioner had supplied energy to the service connection of his son which had earlier been disconnected. Learned counsel also failed to show that the authorized officer had informed the final assessing authority about disconnection of the supply of electricity to the petitioner's service. It is thus evident that the action taken by the respondent is not only violative of rules of natural justice but is also ultra vires the provision contained in para 39.5 of the conditions of supply.

In the result, the writ petition is allowed. The action of the respondent to discontinue the supply of electricity to the petitioner's service connection is declared illegal and quashed. Since the supply has already been restored pursuant to interim order dated 01.07.2005, no further direction is required to be given in the matter.

G.S.SINGHVI, CJ

29th August, 2007

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